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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,901	10/25/2001	E. Skott Greenhalgh	23218-A USA	6517

7590

05/29/2003

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EXAMINER

WILLSE, DAVID H

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 05/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

EE

Office Action Summary	Application No.		Applicant(s)	
	10/003,901		GREENHALGH, E. SKOTT	
	Examiner		Art Unit	
	Dave Willse		3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9, 12, 13, 16-18 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 7, 10, 11 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

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The disclosure is objected to because of the following informalities: On page 2, line 19, "form" is misspelled. Appropriate correction is required.

Claims 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 20, lines 16-17 appear to contradict lines 5-7; likewise, lines 18-19 appear to contradict lines 8-10: there are at least two sets of warp yarns and at least two sets of fill yarns, so the claim language should be more precise.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmitt, US 5,653,746. In one preferred embodiment, the woven fabric has substantially drawn warp yarns and fill yarns which are at most partially drawn (column 2, lines 15-21). Thus the warp yarns have been placed under more tension during fabrication (column 3, lines 42-45). Moreover, since a blood vessel is typically not constant in diameter along the site of implantation, especially at a bifurcation (column 8, line 15), the fill yarns are subjected to different tensions (and hence possess different tensile strengths and flexibilities) under the radial expansions described at column 4, lines 35-50; attention is directed to MPEP 2113. Regarding claims 12 and 13: column 6, lines 5-7.

Claims 1-6, 8, 9, and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore, US 2,117,974. The weft threads **15** and the warp threads **16** are woven under relatively

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less tension than other of the yarns (column 1, lines 45-50) and thereby form periodic regions of relatively greater flexibility (up to a point) than the remaining portions of the tube. Additionally, the relatively soft edge portions **11** are of greater flexibility in view of column 1, lines 38-41, and the elastic weft threads **12^a** would inherently be subjected to less tension than the weft threads **12** during manufacture.


Claims 12, 13, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore, US 2,117,974. Regarding claims 12 and 13, polypropylene yarns, polyurethane yarns, and others were well known in the art and would have been obvious choices in view of their respective material properties. Regarding claims 16-18, fewer of elastic threads **12^a** per unit length would have been an obvious variant of "smaller size or less strength" (column 1, lines 39-40) in order to circumvent the need for more than one type of elastic weft thread.

Claims 7, 10, 11, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-15 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse, whose telephone number is (703) 308-2903. The supervisor, Corrine McDermott, can be reached at (703) 308-2111. The receptionist's phone number is (703) 308-0858, and the main FAX numbers are (703) 305-3591, 3590.

dhw: D. Willse
May 25, 2003


DAVE WILLSE
PRIMARY EXAMINER
ART UNIT 3738